

ReedSmith

MEMO ENDORSED

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December 7, 2009

BY HAND

Hon. Kenneth M. Karas
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

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Re: Zager v. Capital One Bank et al., Case No. 09-CIV-7019 (KMK)

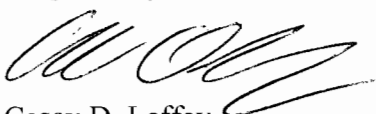
Dear Judge Karas:

We have been retained to represent defendants Capital One Bank USA, N.A. and Richard D. Fairbanks ("Defendants") in the above-captioned action and write to respectfully request an extension of Defendants' time to answer, move, or otherwise respond to the Complaint to January 8, 2009, as well as to extend the dates set forth in Your Honor's December 2, 2009 Order by thirty (30) days.

Although counsel for Plaintiff has consented to the extension of Capital One's time to respond to the Complaint, he has not responded to our request to extend the dates set forth in Your Honor's December 2, 2009 Order. Because we first learned of Plaintiff's November 16, 2009 letter requesting a pre-motion conference today, we have not had an adequate opportunity to respond to the letter. In any event, because Defendants have not yet responded to the Complaint, we feel that Plaintiff's application for a pre-motion conference on class certification is premature. This is our first request to Your Honor for an extension of these deadlines.

We thank the Court for its attention to this matter.

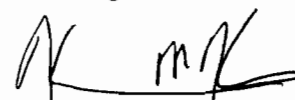
Respectfully submitted,


Casey D. Laffey

cc: Joshua N. Bleichman, Esq.
(by email and overnight courier)

*All deadlines are stayed until
January 11, 2010, the date of the
pre-motion conference.*

So ordered.


12/10/09